

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
PORTLAND DIVISION

CARL L. KIRKPATRICK,

Plaintiff,

v.

**CAROLYN W. COLVIN, Acting
Commissioner of Social Security,**

Defendant.

MOSMAN, J.,

No. 3:13-cv-00649-ST

OPINION AND ORDER

Magistrate Judge Stewart issued her Findings and Recommendation [22], recommending that Defendant's Motion to Dismiss [13] be GRANTED. Plaintiff objected [24] and Defendant Responded [25].

DISCUSSION

The magistrate judge makes only recommendations to the court, to which any party may file written objections. The court is not bound by the recommendations of the magistrate judge, but retains responsibility for making the final determination. The court is generally required to make a de novo determination regarding those portions of the report or specified findings or recommendation as to which an objection is made. 28 U.S.C. § 636(b)(1)(C). However, the court

is not required to review, de novo or under any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the F&R to which no objections are addressed. *See Thomas v. Arn*, 474 U.S. 140, 149 (1985); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003). While the level of scrutiny under which I am required to review the F&R depends on whether or not objections have been filed, in either case, I am free to accept, reject, or modify any part of the F&R. 28 U.S.C. § 636(b)(1)(C).

Having reviewed Plaintiff's Objections [24] and the Commissioner's Response [25], I agree with Magistrate Judge Stewart's findings and ADOPT the F&R as my own opinion. The suit is DISMISSED with prejudice for lack of jurisdiction.

IT IS SO ORDERED.

DATED this 25th day of February, 2014.

/s/ Michael W. Mosman
MICHAEL W. MOSMAN
United States District Judge